

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Implementation of the	)	CC Docket No. 96-115
Telecommunications Act of 1996	)	
Telecommunications Carriers' Use	)	
of Customer Proprietary Network	)	
Information and Other Customer Information	)	

**REPLY COMMENTS OF ATX TECHNOLOGIES, INC**

**ATX TECHNOLOGIES, INC.**

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November 16, 2001

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## **REPLY COMMENTS OF ATX TECHNOLOGIES, INC.**

ATX Technologies, Inc. (“ATX”) hereby submits these Reply Comments in the matter of the Federal Communications Commission’s (the “Commission” or “FCC”) *Second Further Notice of Proposed Rulemaking* in CC Docket No. 96-115 (“NPRM”), released September 7, 2001.

As in the initial Comments, ATX’s Reply Comments are limited to that part of the NPRM addressing the implementation of the Wireless Communications and Public Safety Act of 1999 (the 911 Act), and its amendment to Section 222 of the Communications Act of 1934, as amended..

### **Summary**

Cingular Wireless LLC (Cingular) disagrees with the position of ATX. Cingular proposes that the Commission, in a separate proceeding, promulgate rules addressing the use of customer proprietary network information (CPNI) by “non-licensee entities”. ATX respectively disagrees with Cingular<sup>1</sup>. Section 222 applies solely to telecommunications carriers as defined by the Communications Act of 1934, as amended. Any rules governing the use and disclosure of wireless location information encompassed within the meaning of CPNI must be limited to telecommunications carriers within the jurisdiction of the Commission.

### **The Plain Language of Section 222 Applies Only to Telecommunications Carriers**

Section 222 refers only to the duty of telecommunications carriers to protect the confidentiality of proprietary information relating to its customers. Section 222 is not a general grant of authority to the Commission to regulate the wide range of entities that

may come into possession of information generally characterized as customer proprietary information or who have business relationships with telecommunications carriers subject to section 222.

The plain language of the law limits Section 222 to how telecommunications carriers collect, use, disclose and maintain personally identifiable location-based information regarding their subscribers. The 911 Act did not alter this premise. It states specifically that “(n)othing in this subsection shall be construed to authorize or require the (Commission) to impose obligations or costs on any person<sup>2</sup>. Contrary to Cingular’s advocacy, the Communications Act in general, and section 222 in particular, is not a general warrant to the Commission to address the range of entities and issues that encompass location privacy. Cingular’s plea is more appropriately directed to the Congress, which establishes the parameters of the Commission’s authority.

Moreover, Cingular’s plea for regulation of non carriers is misplaced. There are no loopholes or record of consumer abuse. Automobile manufacturers and telematics companies have long recognized the important interest in safeguarding individually identifiable personal information and disclosing the parameters of how that information is used. Telematics technology allows automobile manufacturers to provide critical public safety response capability to a growing number of subscribers. Advising the vehicle owner what information is disclosed, under what circumstances and to what parties it is released to is an integral element of providing the quality service through advanced technology that makes a tangible difference to an individual facing an emergency.

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<sup>1</sup> Comments of Cingular Wireless LLC at 9-10, CC Docket 96-115 (November 1, 2001).

<sup>2</sup> Section 3(b), 911 Act, Pub. L. No. 106-81, 113 Stat. 1286 (1999).

The Commission should reject arguments asserting that Section 222, as amended, authorizes regulation of location services in general, or of entities with wireless location technology capabilities that have business relationships with telecommunications carriers. Automobile manufacturers and telematics providers are not within any reasonable parameter of being subject to Section 222's CPNI policies, nor has the case been made to invoke any Commission authority under Section 1 of the Communications Act

### **Conclusion**

In exercising its authority under Section 222, the Commission must adhere to the plain language of Section 222. That section applies solely to telecommunications carriers as defined by the Communications Act of 1934, as amended. Any rules governing the use and disclosure of wireless location information that are encompassed within the meaning of CPNI must be limited to telecommunications carriers within the primary jurisdiction of the Commission.

Respectfully submitted,

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A copy of the foregoing Comment of ATX Technologies, Inc. has been forwarded by First Class Mail to Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554

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